DOCKET FILE COPY ORIGINAL ORIGINAL

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re:	)	
	)	
Amendment of Section 73.622(b)	)	MM Dkt. No. 00-138
Table of Allotments	)	RM-9896
DTV Broadcast Stations	)	
(Boca Raton, Florida)	)	

To: Chief, Allocations Branch
Policy and Rules Division

REPLY COMMENTS IN OPPOSITION TO SHERJAN BROADCASTING CO., INC.

Channel 63 of Palm Beach, Inc. ("Channel 63"), the proponent of the proposal, by its attorneys and pursuant to the Commission's Rules, submits its reply comments in opposition to Sherjan Broadcasting Co., Inc. with respect to the above-referenced rulemaking proceeding.

As an initial matter, Channel 63 clarifies that it is still the licensee of Station WPPB-TV. The assignment of license of Station WPPB-TV to The School Board of Broward County, Florida, has not been consummated. Channel 63 has asked the FCC to correct this error on its records.

As explained in the Engineering Statement of Joseph M. Davis and the Reply Comments of Guenter Marksteiner, Sherjan's concerns about contour overlap to its Class A station (or other stations eligible for Class A status) are unwarranted and should not be a factor in the outcome of this DTV channel change proceeding. On engineering grounds (including contour overlap to Sherjan's Class A stations and interference protection calculated from OET Bulletin 69), Sherjan has no basis to complain about the change in DTV Channels from *44 to *40, nor does any other

Class A or Class A "eligible" station. In sum, Channel 63's channel change proposal comports with FCC interference protection rules and policies for Class A stations.

Channel 63's prior submissions in this docketed proceeding, which Channel 63 hereby incorporates by reference (including its *Petition for Rulemaking* in this proceeding, as filed with the FCC on February 8, 2000), demonstrate that there are valid and compelling public interest justifications for the change in WPPB-TV's DTV Channel from *44 to *40. Sherjan has raised no valid objections to the channel change, since its only basis for its challenge – an engineering issue – has been rebutted in the Engineering Statement of Joseph M. Davis.

For these reasons and those expressed in Channel 63's prior *Petition for Rulemaking*, the FCC should reject Sherjan's comments and amend Section 73.622(b) of the Commission's Rules to substitute DTV Channel *40 in lieu of DTV Channel *44 as WPPB-TV's paired digital channel in Boca Raton, Florida.

Respectfully submitted,

CHANNEL 63 OF PALM BEACH, INC.

By: _____

John R. Feore, Jr.
Margaret L. Miller
Christine J. Newcomb
Its Attorneys

October 25, 2000

CERTIFICATE OF SERVICE

I, Sally Naccarato, hereby certify that a true copy of the foregoing Reply Comments in Opposition to Sherjan Broadcasting Co., Inc was mailed first-class, postage prepaid, this 25th day of October, 2000 to the following:

Pam Blumenthal
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Vincent J. Curtis, Jr.
1300 North 17th Street
11th Floor
Arlington, VA 22209-3801
Counsel for Guenter Marksteiner

Kevin Boyle
Latham & Watkins
1001 Pennsylvania Avenue, N.W.
Washington D.C. 20004
Counsel for Palmetto Broadcasters Associated for Communities, Inc.

Wayne Coy, Jr.
Cohn & Marks
1920 N Street, N.W., #300
Washington, DC 20036-1622
Counsel for The School Board of Broward County, Florida

Peter Tannenwald
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W., Suite 200
Washington, DC 20036-3101
Counsel for Sherjan Broadcasting Co., Inc.

Sally Naccarato

ENGINEERING STATEMENT
prepared jointly for
Channel 63 of Palm Beach, Inc.
and
Guenter Marksteiner
WPPB-DT Boca Raton, Florida
MM Docket 00-138

This engineering statement has been prepared on behalf of *Channel 63 of Palm Beach, Inc. ("Channel 63")* and *Guenter Marksteiner*, in support of *Reply Comments* in a Notice of Proposed Rulemaking, Mass Media Docket 00-138.[1] The subject docket proposes to change the paired digital television (DTV) assignment for WPPB-TV (NTSC Channel 63, Boca Raton, Florida) from DTV Channel 44 to DTV Channel 40, as requested by *Channel 63*.

In its comments filed in Docket 00-138, *Sherjan Broadcasting Co., Inc. ("Sherjan")*, licensee of Class A television station WJAN-CA (NTSC Channel 41, Miami, FL), objected to the requested DTV channel change. On the basis of contour overlap, *Sherjan* suggests that harmful interference will be caused to the WJAN-CA and the WFUN-LP (NTSC Ch. 48, Miami, FL) facilities. (WFUN-LP is on the Commission's June 2, 2000 list of stations deemed eligible to file an application for Class A station status.[2]) However, as discussed below, such concern is unwarranted and should not be a factor in the determination of the outcome of Docket 00-138.

Discussion - Interference to WJAN-CA

Contour overlap that would be prohibited under §73.623(c)(5)(i) from the proposed WPPB-DT operation on Channel 40 would exist with respect to WJAN-CA. The attached **Figure 1** depicts the overlap between the WPPB-DT 88 dBμ interfering contour and the WJAN-CA 74 dBμ service contour. The overlap affects a portion of the WJAN-CA service area.

However, the *entire* WJAN-CA 74 dBμ service area is overlapped by the 40 dBμ interfering contour from WZVN-DT (DTV Channel 41, Naples, FL), as proposed in a pending application for construction permit (file number BMPCDT-20000501ACP), as shown in **Figure 1**. WZVN-DT is

[1]See *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Boca Raton, Florida)*, MM Docket No. 00-138, RM 9896, released August 18, 2000.

[2]See June 2, 2000 Public Notice *Certificates of Eligibility for Class A Television Station Status*, DA 00-1224.

on the Commission's list of stations as having filed a "notice of intent to maximize," and its maximization application was filed on or prior to May 1, 2000. Thus, the proposal by WZVN-DT is not required to provide protection to Class A stations such as WJAN-CA.[3] Since this overlap area encompasses the *entire* WJAN-CA service area, the smaller overlap area by the proposed WPPB-DT facility does not increase interference to WJAN-CA, strictly on a contour overlap basis.

Further, and more significantly, per §73.623(c)(5)(iii) of the Commission's Rules, contour overlap is permissible if a more detailed analysis shows that interference is not likely. Specifically, interference protection to a Class A station from a DTV proposal may also be demonstrated (in lieu of contour protection) using the Longley-Rice terrain dependent propagation methods as outlined in Commission's Office of Engineering and Technology Bulletin number 69, *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, July 2, 1997 ("OET Bulletin 69"). Accordingly, detailed interference studies were conducted in accordance with OET Bulletin 69 to determine the impact of the proposed WPPB-DT Channel 40 facility on WJAN-CA.[4]

The interference study results showed that interference to WJAN-CA from the proposed WPPB-DT operation would affect only 74.6 square kilometers, involving a population of 552 persons. This is *0.03 percent of WJAN-CA's service area population (1,691,669) and easily meets the Commission's 0.5 percent rounding tolerance* for DTV proposals to Class A television stations.[5] **Figure 1A** is a depiction of the OET Bulletin 69 study to WJAN-CA.

---

[3]See FCC Public Notice *"Community Broadcasters Protection Act of 1999" Sets Deadline of December 31, 1999 for Full Service TV Stations to File Letters of Intent to Maximize Their DTV Facilities"* DA 99-2739, released December 7, 1999.

[4]The implementation of OET-69 for this study followed the guidelines of OET-69 as specified therein, except that the terrain profile step size is 0.1 km (which provides a finer resolution than the Commission's standard 1 km step size). A standard cell size of 2 km was used. The Longley-Rice computer program input data, following the guidelines established under OET-69, includes a location variability of 50%, a time availability of 10%, a situation variability of 50%, horizontal polarization, 0.005 S/m conductivity, a climate constant of 15, an assumption of a continental temperate climate zone, and a receive antenna height of 10 meters. The service area for the involved analog Low Power Television facility is that area predicted to receive signal levels of at least 74 dBμ using the Longley-Rice methodology, and within the 74 dBμ F(50,50) service contour distance. Comparisons of various results of this computer program to the Commission's implementation of OET-69 show good correlation.

[5]See *Establishment of a Class A Television Service*, MM Docket 00-10, FCC 00-115, released April 4, 2000, at para 74 .

Thus, use of the Longley-Rice terrain dependent propagation methods of OET Bulletin 69 shows that predicted interference to WJAN-CA is substantially less than that suggested by *Sherjan,* and is within the Commission's tolerance for DTV to Class A interference.

Interference to WFUN-LP

Contour overlap that would be prohibited under §73.623(c)(5)(i) from the proposed WPPB-DT operation on Channel 40 would exist with respect to Low Power Television (LPTV) station WFUN-LP, as depicted in the attached **Figure 2.**

However, the *entire* WFUN-LP 74 dBμ service area over land is overlapped by the 88 dBμ interfering contour from WAMI-DT (DTV Channel 47, Hollywood, FL), as proposed in a pending application for construction permit (file number BPCDT-19991029AEG), as shown in **Figure 2**. The WAMI-DT "maximization" application for a 1000 kW facility (file number BPCDT-19991029AEG) was filed prior to the November 29, 1999 enactment of the *Community Broadcasters Protection Act of 1999*, and is thus not required to afford protection to LPTV stations eligible for Class A status such as WFUN-LP. Since this overlap area encompasses the *entire* WFUN-LP service area, the smaller overlap area by the proposed WPPB-DT facility does not increase interference to WFUN-LP, strictly on a contour overlap basis.

A portion of the WFUN-LP service area is also overlapped by the 80 dBμ interfering contour from the licensed WPPB-TV NTSC facility (Ch. 63), also shown in **Figure 2**. Some of the overlap from the proposed WPPB-DT Channel 40 facility occurs within the existing overlap area from the licensed WPPB-TV Channel 63 facility. The overlap from WPPB-TV Channel 63 is "grandfathered", as it existed prior to the November 29, 1999 enactment of the *Community Broadcasters Protection Act of 1999.*

Further, detailed interference studies were conducted in accordance with OET Bulletin 69 to determine the impact of the proposed WPPB-DT Channel 40 facility on WFUN-LP. The interference study results showed that the proposed WPPB-DT facility *would not cause any*

interference to WFUN-LP (even when "masking" of interference from other stations is ignored). **Figure 2A** is a depiction of the OET Bulletin 69 study to WFUN-LP.

Although conventional contours show the possibility of interference, the Longley-Rice terrain dependent propagation methods in OET Bulletin 69 demonstrates that interference to WFUN-LP from the proposed WPPB-DT would not occur. This method of showing interference protection is permitted by §73.623(c)(5)(iii) in lieu of contour protection. Thus, the Commission's requirements for DTV to Class A interference are satisfied.

Other Class A Television Considerations

For completeness, an allocation study of possible conflicts was conducted with respect to any other LPTV / translator stations that may be eligible for Class A status. The study determined that contour overlap exists between the proposed WPPB-DT facility and only two other LPTV stations, using the criteria of §73.623(c)(5). Namely, only W40BN (APP, Ch. 40, Port St. Lucie, FL) and W40AA (LIC, Ch. 40, Matecumbe, FL) are subject to prohibited contour overlap within their respective service area. However, neither of these stations are on the Commission's June 2, 2000 list of stations deemed eligible to file an application for Class A station status, and protection is therefore not required.

With respect to interference caused from nearby LPTV and Class A stations to the proposed WPPB-DT facility, an evaluation was conducted per §73.6013, which would require that an analog Class A station not cause 0.5 percent (or more) interference to a DTV facility's service population. The detailed interference study was conducted in accordance with OET Bulletin 69. The results showed that only W40BN and W40AA would cause any level of interference to the proposed WPPB-DT facility. As stated earlier, neither of these stations are on the Commission's June 2, 2000 list of stations deemed eligible to file an application for Class A station status, and any interference protection to or from these facilities is not required. WJAN-CA and WFUN-LP, among other stations, were found not to cause any interference to the proposed WPPB-DT facility.

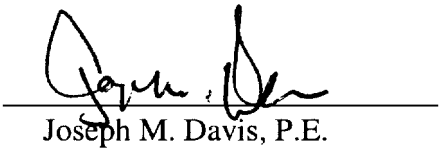
Thus, for the reasons outlined above, it is believed that the Commission's interference criteria with respect to all Class A stations and LPTV stations eligible for Class A status are met.

Summary

The WPPB-DT proposal would cause interference to only 0.03 percent of WJAN-CA's service population, which complies by a wide margin with the Commission's stated 0.5% rounding tolerance for the use of OET Bulletin 69 techniques. No interference is caused to WFUN-LP, based on OET Bulletin 69. No interference is caused to the proposed WPPB-DT facility by WJAN-CA, WFUN-LP, or any other Class A station or LPTV station eligible for Class A status. No other Class A station or LPTV station eligible for Class A status is affected by interference from the proposed WPPB-DT facility (based on contour overlap and OET Bulletin 69).

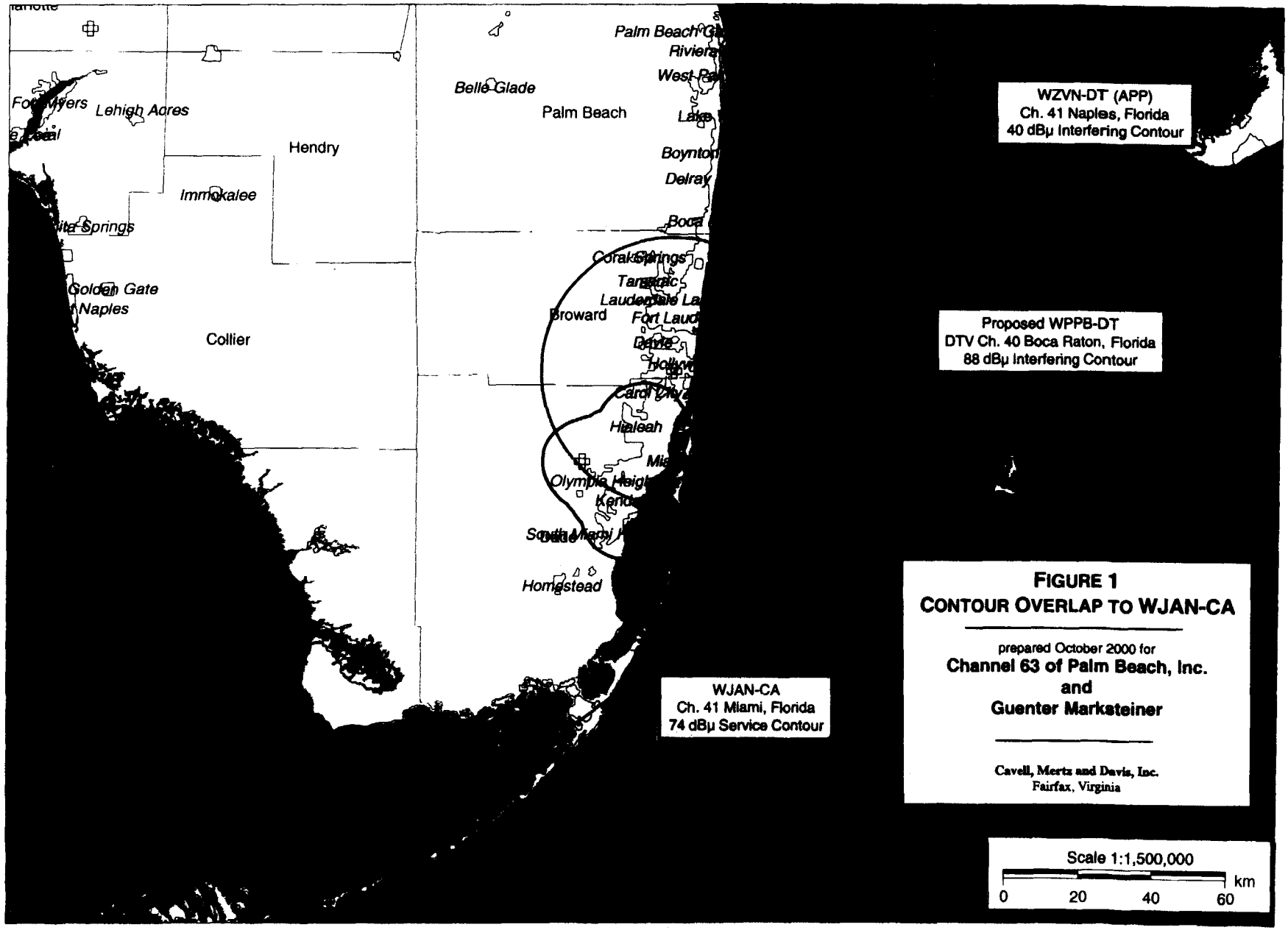
Certification

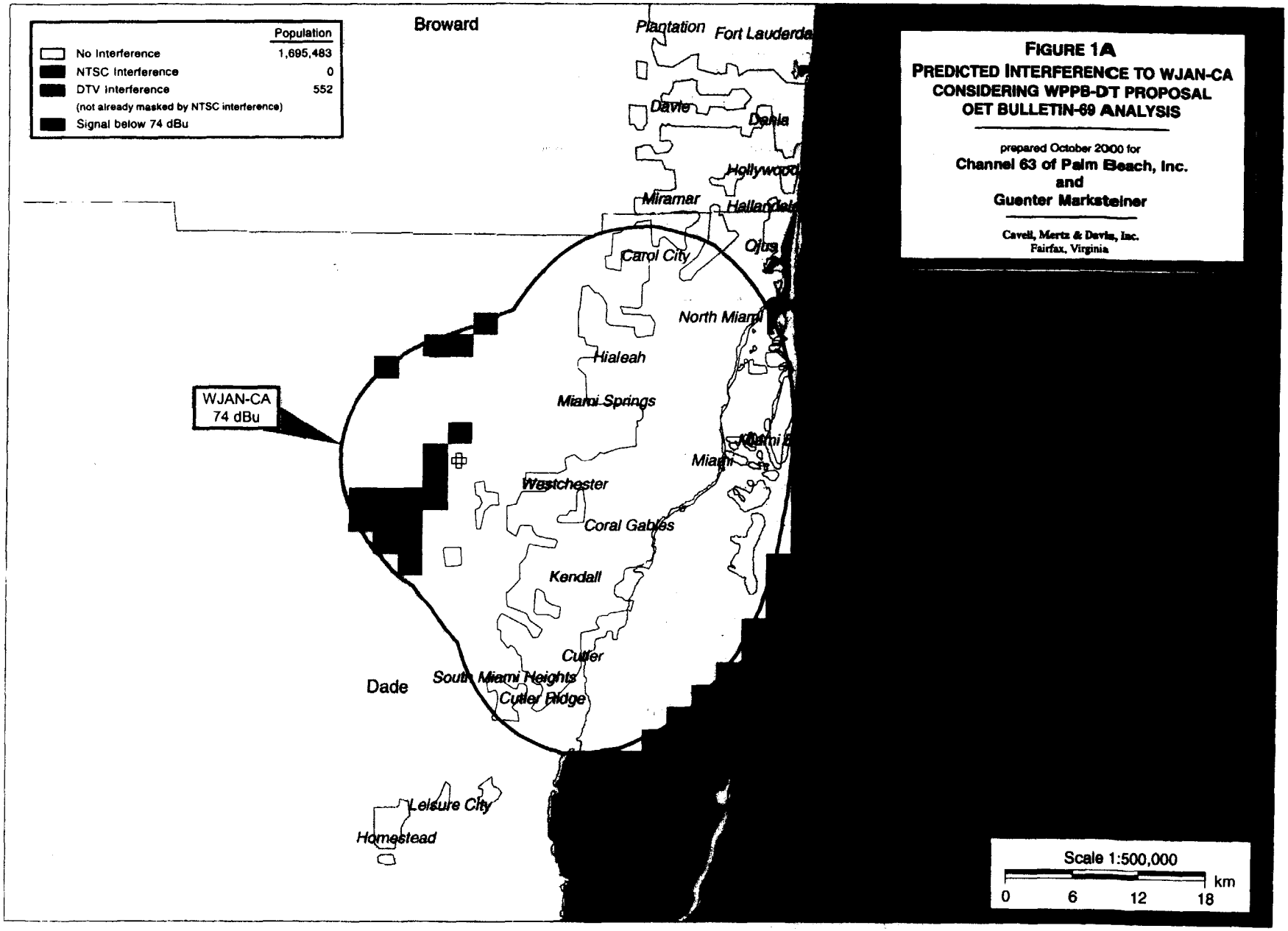
The undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief. Mr. Davis is a principal in the firm of *Cavell, Mertz & Davis, Inc.*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental authorities and the Federal Communications Commission. His qualifications are a matter of record with that entity.

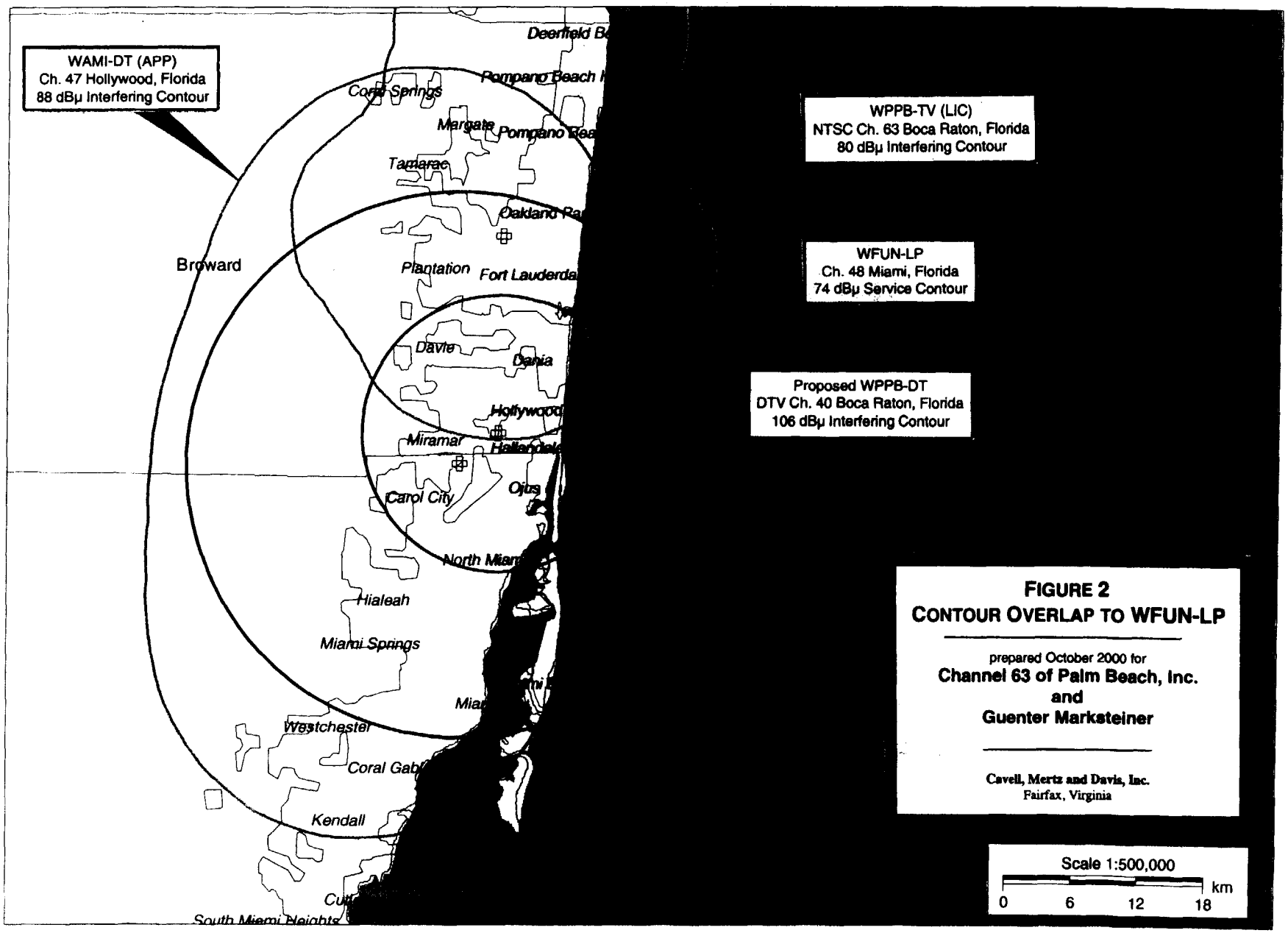


Joseph M. Davis, P.E.
October 23, 2000

Cavell, Mertz & Davis, Inc.
10300 Eaton Place Suite 200
Fairfax, VA 22030
(703) 591-0110


Palm Beach
Riviera
West Palm
Belle Glade
Palm Beach
Lake
Boynton
Delray
Boca
Coral Springs
Tamarac
Lauderdale La
Broward
Fort Lauder
Davie
Hollywo
Carol City
Hialeah
Olympia Heigh
Kendall
South Miami
Dade
Homestead
Fort Myers
Lehigh Acres
Cape Coral
Hendry
Immokalee
Bonita Springs
Golden Gate
Naples
Collier
WZVN-DT (APP)
Ch. 41 Naples, Florida
40 dBμ Interfering Contour
Proposed WPPB-DT
DTV Ch. 40 Boca Raton, Florida
88 dBμ Interfering Contour
WJAN-CA
Ch. 41 Miami, Florida
74 dBμ Service Contour
FIGURE 1
CONTOUR OVERLAP TO WJAN-CA
prepared October 2000 for
Channel 63 of Palm Beach, Inc.
and
Guenter Marksteiner
Cavell, Mertz and Davis, Inc.
Fairfax, Virginia
Scale 1:1,500,000
0
20
40
60
km


Population
No Interference 1,695,483
NTSC Interference 0
DTV Interference 552
(not already masked by NTSC interference)
Signal below 74 dBu
Broward
Plantation
Fort Lauderda
Davie
Dania
Hollywood
Miramar
Hallandale
Carol City
Opa
North Miami
Hialeah
Miami Springs
Miami
Westchester
Coral Gables
Kendall
Cutler
South Miami Heights
Cutler Ridge
Dade
Leisure City
Homestead
WJAN-CA
74 dBu
FIGURE 1A
PREDICTED INTERFERENCE TO WJAN-CA
CONSIDERING WPPB-DT PROPOSAL
OET BULLETIN-69 ANALYSIS
prepared October 2000 for
Channel 63 of Palm Beach, Inc.
and
Guenter Marksteiner
Cavell, Mertz & Davis, Inc.
Fairfax, Virginia
Scale 1:500,000
km
0 6 12 18


WAMI-DT (APP)
Ch. 47 Hollywood, Florida
88 dBμ Interfering Contour
WPPB-TV (LIC)
NTSC Ch. 63 Boca Raton, Florida
80 dBμ Interfering Contour
WFUN-LP
Ch. 48 Miami, Florida
74 dBμ Service Contour
Proposed WPPB-DT
DTV Ch. 40 Boca Raton, Florida
106 dBμ Interfering Contour
Broward
Deerfield B
Pompano Beach
Coral Springs
Margate
Pompano Bea
Tamarac
Oakland Pa
Plantation
Fort Lauderda
Davie
Dania
Hollywood
Miramar
Carol City
Opa
North Miam
Hialeah
Miami Springs
Mia
Westchester
Coral Gab
Kendall
Cut
South Miami Heights
FIGURE 2
CONTOUR OVERLAP TO WFUN-LP
prepared October 2000 for
Channel 63 of Palm Beach, Inc.
and
Guenter Marksteiner
Cavell, Mertz and Davis, Inc.
Fairfax, Virginia
Scale 1:500,000
km
0
6
12
18

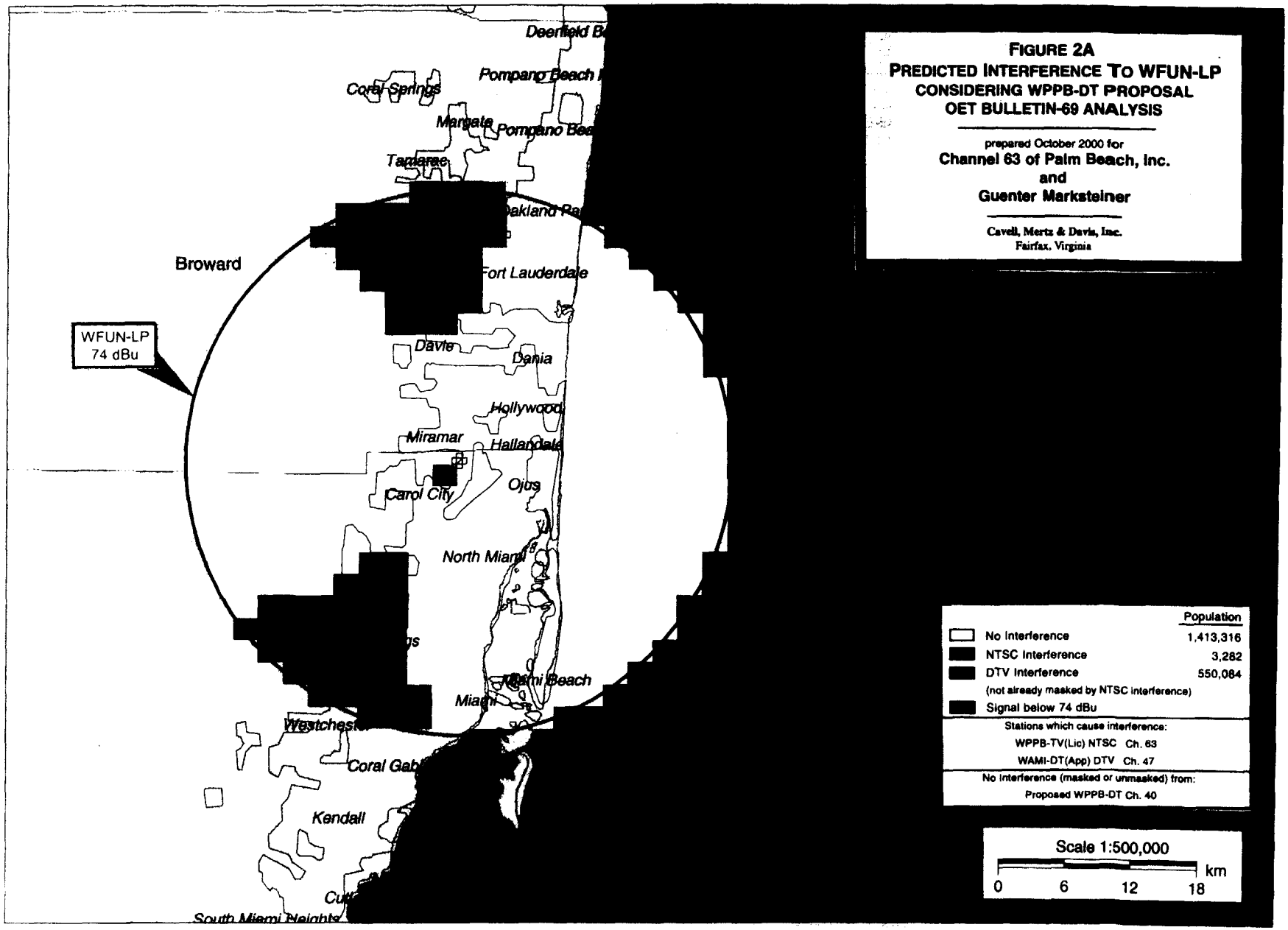


FIGURE 2A
PREDICTED INTERFERENCE TO WFUN-LP
CONSIDERING WPPB-DT PROPOSAL
OET BULLETIN-69 ANALYSIS
prepared October 2000 for
Channel 63 of Palm Beach, Inc.
and
Guenter Marksteiner
Cavell, Mertz & Davis, Inc.
Fairfax, Virginia
WFUN-LP
74 dBu
Broward
Deerfield B
Pompano Beach
Coral Springs
Margate
Pompano Bea
Tamarac
Oakland Pa
Fort Lauderdale
Davie
Dania
Hollywood
Miramar
Hallandale
Carol City
Ojus
North Miami
Miami Beach
Miami
Westchest
Coral Gab
Kendall
South Miami Heights
Population
No Interference 1,413,316
NTSC Interference 3,282
DTV Interference 550,084
(not already masked by NTSC interference)
Signal below 74 dBu
Stations which cause interference:
WPPB-TV(Lic) NTSC Ch. 63
WAMI-DT(App) DTV Ch. 47
No interference (masked or unmasked) from:
Proposed WPPB-DT Ch. 40
Scale 1:500,000
km
0 6 12 18